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LOK SABHA

The following report of the Joint Committee on the Bill further to amend the Prevention of Food Adulteration Act, 1954 was presented to Lok Sabha on the 7th September, 1964:—

COMPOSITION OF THE JOINT COMMITTEE

Lok Sabha

Dr. Sarojini Mahishi—*Chairman*

MEMBERS

2. Shri K. L. Balmiki
3. Shri Sonubhau Dagadu Baswant
4. Shrimati Jyotsna Chanda
5. Shri N. C. Chatterjee
6. H.H. Maharaja Pratap Keshari Deo
7. Shri Shiv Charan Gupta
8. Shri Prabhu Daval Himatsingka
9. Shri Tulshidas Jadhav
10. Shri Hari Vishnu Kamath
11. Shri C. M. Kedaria
12. Dr. Mahadeva Prasad
13. Shri Yamuna Prasad Mandal
14. Dr G. S. Melkote
15. Shri Gokulananda Mohanty

16. Dr. D. S. Raju
17. Sardar Ranjit Singh*
18. Dr. C. B. Singh
19. Dr. P. Srinivasan
20. Shri U. M. Trivedi
21. Shrimati V. Vimla Devi
22. Dr. Sushila Nayar.

Rajya Sabha

23. Shrimati C. Ammanna Raja
24. Shri Arjun Arora
25. Shri R. K. Bhuwalka
26. Shri J. C. Chatterjee
27. Shri K. Damodaran
28. Shrimati Jahanara Jaipal Singh
29. Shri Shantilal Kothari
30. Shri S. S. Mariswami
31. Shri Deokinandan Narayan
32. Shri Palat Kunhi Koya
33. Shri Niranjan Singh.

DRAFTSMAN

Shri S. Harihara Iyer, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF THE MINISTRY

1. Shri R. K. Ramadhyani, *Secretary, Ministry of Health.*
2. Shri Gian Prakash, *Joint Secretary, Ministry of Health.*
3. Shri A. S. Bawa, *Deputy Secretary, Ministry of Health*
4. Dr. Y. K. Subrahmanyam, *A.D.G. (P.H.), Ministry of Health.*
5. Shri Amar Nath Varma, *Under Secretary, Ministry of Health.*

SECRETARIAT

Shri A. L. Rai—*Deputy Secretary.*

*Ceased to be member of Lok Sabha with effect from the 14th July, 1964, on his election being declared void by the Punjab High Court.

REPORT OF THE JOINT COMMITTEE

1. the Chairman of the Joint Committee to which the Bill* further to amend the Prevention of Food Adulteration Act, 1954, was referred, having been authorised to submit the report on their behalf, present this their report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in Lok Sabha on the 20th December, 1963. The motion for reference of the Bill to a Joint Committee of the Houses was moved in Lok Sabha by Dr. Sushila Nayar, the Minister of Health, on the 3rd June, 1964, and was discussed and adopted on the same day.

3. Rajya Sabha discussed and concurred in the said motion on the 6th June, 1964.

4. The message from Rajya Sabha was published in the Lok Sabha Bulletin, Part II, dated the 10th June, 1964.

5. The Committee held eleven sittings in all.

6. The first sitting of the Committee was held on the 10th June, 1964, to draw up their programme of work. The Committee at this sitting decided to hear evidence from associations etc. and to issue a press communiqué inviting memoranda for the purpose by the 15th July, 1964.

7. 944 memoranda/representations on the Bill were received by the Committee from various associations etc.

8. At their second to sixth sittings held on the 4th to 8th August, 1964, respectively, the Committee heard the evidence given by representatives of associations.

9. The Committee, at their seventh sitting held on the 18th August, 1964, heard the views of Shri A. P. Jain, M.P., Shri H. K. L. Bhagat, Deputy Mayor of Delhi, Shrimati Purabi Mookerjee, Minister of Health, West Bengal, and Shri B. R. Gupta, Secretary, Department of Health, Government of West Bengal, on the Bill.

*Published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 20th December, 1963.

10. The Committee have decided that the evidence given before them should be laid on the Tables of both the Houses *in extenso*.

11. The Committee considered the Bill clause by clause at their eighth to tenth sittings held on the 19th to 21st August, 1964, respectively.

12. The Committee considered and adopted the report on the 4th September, 1964.

13. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

14. *Enacting Formula and Clause 1*.—Amendments to enacting formula and clause 1 are consequential.

15. *New Clause 2*.—The amendments made in Section 2 of the principal Act are only consequential.

16. *Clause 3 (Original Clause 2)*.—The Committee feel that there should be a specific mention in Section 3(2) (g) of the principal Act to enable agricultural interests also to be nominated. The clause has been amended accordingly.

The other amendment is consequential on account of the changes made in the nomenclature of Ministries.

17. *New Clause 5 (Original Clause 4)*.—The Committee are of the view that there should be a provision for the appointment of public Analysts by the Central Government to bring it in line with the appointment of food inspectors. For this purpose section 8 of the principal Act is also proposed to be substituted suitably in this clause.

The other changes made in the clause are of drafting nature.

18. *Clause 6 (Original Clause 5)*.—The Committee have made certain drafting changes in the clause. They, however, recommend that, besides the Food Inspector, the vendor should also have a right to place his seal on the food samples, if he so desires, when they are taken for analysis, by suitably amending the rules.

19. *Clause 7 (Original Clause 6)*.—The Committee are of the opinion that there should be a provision making it obligatory on the part of manufacturers, distributors and dealers of articles of food to give a warranty in writing, about the nature and quality of the articles sold, to the vendor. For this purpose a new Section 14 has been inserted. Section 14 in the original clause 6 has been renumbered as Section 14A.

20. *New Clause 8.*—The amendment made in Section 15 of the principal Act is consequential in nature.

21. *Clause 9 (Original Clause 7).*—The original clause 7 provided for awarding different punishments for the first, second, third and subsequent offences under the Act. For the first offence, the minimum sentence of imprisonment was six months, if the offence related to the import, manufacture, sale, etc. of adulterated, prohibited articles of food and with respect to offences under clauses (b), (c), and (d) of sub-section (1) of section 16, and for other offences there was no minimum sentence of imprisonment but only a maximum sentence of imprisonment up to a period of two years. For the second, third and subsequent offences, of whatever nature, there were both maximum and minimum sentences of imprisonment ranging from six months up to six years. The Committee, while agreeing that there should be a minimum sentence of imprisonment for all offences under the Act or the rules made thereunder, feel that prescription of different punishments for the first, second, third and subsequent offences may fetter the hands of the court in awarding higher punishment in the case of a first or second offence if it is so called for according to the gravity of the offence. To avoid this the Committee have suggested that for all offences under the Act or the rules made thereunder, there should be a minimum sentence of imprisonment for a term of not less than six months and of fine, of not less than one thousand rupees, and a maximum sentence of imprisonment for a term of six years, whether the offence be the first, second, third etc. However, in the case of technical offences like the import, manufacture, sale etc. of an article of food which is adulterated under sub-clause (1) of clause (i) of section 2 or which is misbranded under sub-clause (k) of clause (ix) of section 2, the Committee feel that a discretion should be given to the court to award a lesser sentence of imprisonment and fine than the minimum sentence of imprisonment of six months and of fine of one thousand rupees. The Committee also feel that the same discretion should be given to the court with regard to offences relating to the import, manufacture, sale, etc. of any article of food (not being adulterated or misbranded or prohibited) in contravention of any of the provisions of the Act or of any rule made thereunder. Sub-section (1) of section 16 of the Act has been modified suitably for the purpose.

The Committee consider that if any person in whose safe custody any article of food has been kept under sub-section (4) of section 10 of the Act, tampers or in any other manner interferes with such article, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine which shall not be less than one thousand rupees. But,

if such article of food is sold or distributed and is subsequently found to be adulterated with any poisonous or other ingredient under sub-clause (h) of clause (i) of section 2, the Committee feel that the offence is a very serious offence and that the offender should be punishable with imprisonment for a term of six years and with fine which should not be less than one thousand rupees. The new sub-sections (1A) and (1B) of section 16 inserted in the clause, are intended to achieve this purpose.

Sub-section (1A) of section 16 proposed in the original clause has been renumbered by the Committee as sub-section (1C) and in that section, punishment for not giving a warranty has also been provided. The Committee further feel that there should be a minimum fine of five hundred rupees, in addition to the sentence of imprisonment, for not giving a warranty and also for the refusal to disclose the name of the person from whom the vendor purchased the article of food.

The Committee also feel that if any person convicted of an offence under the Act commits a like offence afterwards, the court, before which the second or subsequent conviction takes place, should be empowered to order the cancellation of the licence, if any, granted to him under the Act. Suitable provision for this purpose has been proposed in the new sub-section (1D) of section 16.

22. *Clause 10 (Original clause 8).*—In view of the provision proposed in the new section 14 making it obligatory on the part of the manufacturer, distributor and dealer of any article of food to give a warranty to the vendor regarding the nature and quality of such article, the Committee feel that the question of exercising reasonable diligence to ascertain that the article of food is or is not adulterated or misbranded, by the vendor, is unnecessary. Sub-section (2) of section 19 of the Act has been suitably recast.

The amendment to sub-section (3) of section 19 of the Act is only consequential.

23. *New clause 12.*—It has been brought to the notice of the Committee that for want of a provision enabling the court, during the trial of an offence against the vendor of an article of food, to implead the manufacturer, distributor or dealer with respect to such article of food, many manufacturers, distributors and dealers in such article go scotfree. In order to have an effective check at all levels, the Committee consider necessary to have a provision to the effect that if during the trial of any offence alleged to have been committed by any person, not being the manufacturer, distributor or dealer of any article of food, the court is satisfied on the evidence adduced before

it that the manufacturer, distributor or dealer is also involved in the offence, the court may proceed against the manufacturer, distributor or dealer also. The new section 20A has been proposed by the Committee for this purpose.

24. *Clause 13 (original clause 10).*—The Committee are of the view that provision may be made in the rules providing for the circumstances under which the licence, if any, granted to a person under the Act, may be cancelled. Necessary amendments for this purpose have been made in clause (a) of sub-section (1) of section 23 of the Act.

The amendments in sub-section (2) of section 23 of the Act are only to bring it in line with the model provision relating to laying of rules before the Houses of Parliament, suggested in paragraph 45 of the Seventh Report of the Committee on Subordinate Legislation (Second Lok Sabha).

25. *Clause 14 (original clause 11).*—The amendment proposed to clause (a) of sub-section (2) of section 24 of the Act is only consequential.

The changes made in clause (b) are similar to those made by the Committee in clause (a) of sub-section (1) of section 23, in clause 13.

26. The Joint Committee recommend that the Bill as amended be passed.

NEW DELHI;
The 4th September, 1964.

SAROJINI MAHISHI,
Chairman,
Joint Committee.

MINUTES OF DISSENT

I

The Bill as it has emerged from the Joint Committee has belied all expectations and falls far short of adequately dealing with the adulteration menace rampant in the country.

We are passing through a period of food crisis. Food is not adequately available and whatever is found in the market is at an exorbitant price, and that too is not pure. Anti-social elements, with the ulterior motive of making quick money, take advantage of the scarcity and adulterate food on a large scale with all sorts of in-conceivable and inedible things and at times even with poison, thereby injuring the health of the community. It is the biggest crime against humanity and even public flogging may not be adequate for this offence of deliberate genocide, but deterrent punishment alone cannot put a stop to this problem. An incorruptible Government with an efficient administrative machinery insulated against all pressures, political and otherwise, a foolproof legislation and above all a conscious public opinion can only put a stop to this. We know many food adulterators are not prosecuted, and even some cases booked were withdrawn by the authorities because of some pressure, and they jolly well carry on their nefarious trade. The State Governments have signally failed to stop this widespread malpractice. Section 9 proposed in the amending Bill, as it stands, envisages the appointment of Food Inspectors by Central and State Governments. Diarchy or dual responsibility has never worked successfully; so, to have the appointment of Food Inspectors by two agencies will never work satisfactorily. It is now high time that full responsibility of dealing with this problem may be squarely placed on the shoulders of the Central Government who should appoint Food Inspectors, have laboratories dispersed all over the country and administer the legislation on prevention of food adulteration.

Further, the food stuff or foodgrains have their regional origins whereas they are distributed all over the country. It is urged that at their place of origin they should be certified by certain agency of the Central Government to be pure and unadulterated by putting some mark, for example, I.S.I. or any other. It will go a long way to detect the real adulterator at a later stage.

Lately the State Governments have been entering the field of trade in foodgrains. So, it is all the more imperative that the Centre should be the only authority to enforce the legislation and should see that no discretion is made in giving exemplary punishment to the adulterator whether he is a private individual or a State bureaucrat.

As we are anxious that deterrent punishment be provided to the culprit, we are equally anxious that let not this legislation be an instrument of oppression and open flood gates of corruption. I cannot reconcile to the plea that independent witnesses are not readily available and the number of witnesses be reduced from "not less than two" to "one or more". I think two independent witnesses are "a must" to meet the ends of justice specially when consumers, all anxious to get pure food, will be readily available as witnesses.

Lastly, in this country there are different standards laid down for the same kind of food stuff by different Government agencies, e.g., (i) Rules under the Prevention of Food Adulteration Act, (ii) Indian Standards Institute, and (iii) Agmark. We must have one standard laid down for the same food stuff throughout the country by all the agencies of the Government. The inclusion of a representative of the Indian Standards Institute is a welcome sign. The standardisation of the food stuff by the expert body should precede over all actions of the Government in this regard.

NEW DELHI;

P. K. DEO.

The 5th September, 1964.

II

While welcoming wholeheartedly the Prevention of Food Adulteration (Amendment) Bill, 1963, I am constrained to say that the proposed Section 9 in the amending Bill is not only vague but falls far below the general expectations.

The said Section 9 says that "The Central Government or a State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications to be food inspectors for such areas as may be assigned to them by the Central Government or the State Government. as the case may be."

The word "may" in the amending Bill does not make it obligatory on the Central Government to take up the responsibility of appointing the Food Inspectors in all the States and leaves the responsibility with the State Governments as before, which I am sorry to point out, is enough to kill the very object of the Bill.

The State Governments, as we all know from the statistics, had miserably failed in arresting the countrywide menace of food adulteration.

For very many contraventions cases are not instituted and even the few cases booked are withdrawn later by higher authorities because of local pressure.

It is well known that local politics play a major role in these matters. I know many instances wherein the local inspectors could not do much in the matter in the face of pressure by people who are politically or otherwise powerful.

The adulterating traders being very clever people are always alert and keep the local powers-that-be in good humour in several ways. As a result the culprits go scot-free and poor and innocent people are made to pay not only higher prices but subject themselves to great dangers of food poisoning and other allied maladies on a large scale.

We are facing a critical food situation and the hope of early or easy recovery from it is not in sight. People are eating less now and pay for the same dearly too. The general health of poor and middle class people is already bad by malnutrition. Added to this is adulteration which makes far great danger to health.

It is imperative that the Central Government should come forward to assure the people that the food, however little it may be, is pure and free from adulteration.

This could be possible only by the Centre taking up the entire responsibility of managing the machinery that we now set up to check the adulteration.

I am told that the power to appoint Food Inspectors is now in the Concurrent List and as such it is not possible to do so without amending the Constitution. We have amended our Constitution many times. To give poor people clean food if the Constitution requires an amendment, it should be done unhesitatingly. I would say this amendment would be most welcome to the people. The head of the Food Inspection Staff in the States should work under the Union Health Director and be responsible to him. I would suggest that this should be arranged for by agreement with the States or by a suitable provision in the law.

NEW DELHI;

S. S. MARISWAMI.

The 5th September, 1964.

III

This amendment has brought the picture of the administration of this Act into proper perspective before the Committee.

It would have been better if the whole Act had been studied by the Law Commission and then suitably amended.

The object of the Act is laudable but its administration has not been free from the evils of corruption and although the Committee in its deliberations kept that aspect of the matter in view, yet it was felt that the corruption could not be ruled out.

The amendment regarding the first offender provided in clause 9 of imprisonment of not less than six months has been overdone according to me. It is well known that the reports of the so-called public analysts are not by Public Analysts themselves but by Laboratory Assistants of questionable experience and qualifications and as their report, subject to the report of the Central Food Laboratory is conclusive, there are thus chances of some members of the judiciary, who might be inexperienced, convicting some innocent and poor people—petty traders of villages—, who may not be able to enjoy the luxury of robust and sound legal advice. When first offenders under the Criminal law of the land are given protection under the Probation of Offenders Act and under Section 562 of the Criminal Procedure Code, therefore, imposing the sentence of compulsory imprisonment on the first offender under this Act, will set at naught the present-day conception of administration of penal law. This amendment, in my opinion, is uncalled for.

The provisions of Section 20 (clause 11) regarding the authority to prosecute must be well defined particularly in view of the recent pronouncements of the Supreme Court in A.I.R. 1963 Supreme Court Page 1198 and in A.I.R. 1963 Orissa Page 158.

Provision made in Section 20A (clause 12) is not commendable and the prosecution should not be split up in this manner for it will create difficulties for the prosecution as well as for the accused. While I do not object to the principle behind it, I certainly cannot approve of the provisions as embodied in this section.

In the end I make one suggestion that the rules which also contain the standards as provided under Rule 5 require some deep consideration. These standards must only be fixed after calling upon the various interested Trade Associations or guilds to submit their views on the standards. The present standards prescribed under Rule 5 in Appendix B are in many cases highly defective

and in some cases reproductions of the British Pharmacopoeia and in others depict ignorance. The Table for Ghee, for example, is at places a sad reflection of geographical ignorance about States and of chaotic thinking. Scientific data could not have been marshalled in a worse form.

It is also desirable that the public analysts should be enjoined to submit reports in specified and unambiguous manner. For example, it should not be enough for them to say that a coal tar dye has been mixed with a particular substance but they must give the name of the particular dye or colour which has been found mixed because not all dyes are injurious and the vague analysis often misleads the courts and affects the prosecution both ways.

Subject to this note of dissent, I approve of the report.

NEW DELHI;

U. M. TRIVEDI.

The 7th September, 1964.

IV

We have carefully studied the provisions of the Bill as introduced in Lok Sabha as well as the various changes recommended by the Joint Committee in their report. While we agree that this legislation embodying the modifications suggested by the majority of the Committee will mark an advance on the provisions of the parent Act, 37 of 1954, we are definitely of the view that it does not go far enough. The menace of adulteration of food has now assumed such alarming proportions and the nefarious activities of the anti-social, inhuman and unscrupulous merchants of death have proliferated to such an extent that a sterner approach to the problem is absolutely necessary in order to eradicate the evil, and to effectively tackle what is fast becoming a veritable question of life and death for the common man, who is finding it hard to get food at reasonable prices, and then what little he gets is neither clean nor pure.

The depredations of adulterators have never been so vile as they are today. Not only, for instance, are sand, stone, dirt and sawdust, but also filth and dung are grist to the adulterator's mill; his misdeeds may bring death, disease and disability in their train, but he does not care, so long as he gets rich quick and makes his pile.

We are aware that the evil of adulteration has been thriving in the pervasive, pernicious climate of corruption in our country, which has become fouler during the last decade. Another highly contributory cause has been the rather soft attitude, bordering on connivance, of certain high-ups in the ruling party and Government, who have covert, if not, overt links with some top-notch producers and traders who tamper with the people's food for personal profit. We are convinced that the ultimate cure of the evil lies in a radical transformation and purification of the socio-political climate, in a revolution of national character, for which the initiative must, in the main, be taken by those ensconced in high positions in society and in the Administration.

We hope this task will be undertaken in right earnest, and furthered by all those who genuinely care for rapid social and economic progress, irradiated by ethical, moral and spiritual values. It will have to be nothing short of a crusade. However, as a preventive and punitive measure, the Bill, as amended by the Joint Committee, can better serve the purpose it has in view if the following modifications are incorporated therein:—

We believe that the maximum penalty for major offences of adulteration, particularly so if repeated, should be, not six years as recommended by the Committee, but death or imprisonment for life. Our suggestion finds valiant support in the view of a former Union Health Minister, Shri D. P. Karmarkar while he was in office, that adulterators of food are potential murderers who deserve the highest penalty. So also the Minister of Health, West Bengal, who gave evidence before the Joint Committee, described adulterators as worse than murderers. If the adulterator's calculated crime can cause death, why should not capital punishment be prescribed for such a criminal, in any case during the Emergency, and even thereafter, so long as capital punishment is not abolished by law? In this connection I cannot help recalling what the former Finance Minister, Shri Morarji Desai, replying to a suggestion I had made in the Lok Sabha that adulteration be made punishable with flogging, had said, that he would prefer hanging, being less barbarous than flogging. I wonder whether he expressed the then Government's view. We also think that the habitual adulterator's,—that is, after the second or third conviction,—assets should be confiscated, he should be deprived of civic rights including the franchise, and disqualified for

any public office or for membership of a legislature or local body. The penal provisions of the Bill, as amended by the Committee will not prove deterrent enough.

We are sure that only draconian punishment meted out to a few culprits will go a long way towards bringing about a change in the many, and safeguarding the life and health of millions.

We trust that the machinery of inspection and analysis will be strengthened, streamlined and made cleaner, more honest and efficient. The Government should not shrink from taking action, wherever necessary, against corrupt or inefficient staff.

One word more, and we have done. Now that Government will shortly take to trading in foodgrains, and, may be, in other articles of food too later, the penal provisions of this measure, made more stringent and drastic by our recommendations aforesaid, should apply equally to those agencies or employees of Government who may be found guilty of adulteration. This observation has been necessitated by the recent report of a public analyst of the Bombay Municipal Corporation, that the sugar distributed by the Maharashtra Government under the directions of the Centre, was sub-standard. What is one to do, if the fence itself were to eat up the crop?

NEW DELHI;
The 7th September, 1964.

H. V. KAMATH
NIRANJAN SINGH.

Bill No. 59 B of 1963

THE PREVENTION OF FOOD ADULTERATION
(AMENDMENT) BILL, 1963

(AS REPORTED BY THE JOINT COMMITTEE)

(Words *sidelined or underlined* indicate the amendments suggested by the Committee; asterisks indicate omissions).

A

BILL

further to amend the Prevention of Food Adulteration Act, 1954.

Be it enacted by Parliament in the Fifteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Food Adulteration (Amendment) Act, 1964.

Short title
and com-
mence-
ment.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

37 of 1954.

2. In section 2 of the Prevention of Food Adulteration Act, 1954, (hereinafter referred to as the principal Act), in clause (vii) and in sub-clause (2) of clause (viii), for the words "the State Govern-
10 ment", the words "the Central Government or the State Govern-
ment" shall be substituted.

Amendment
of section 2.

3. In section 3 of ***** the principal Act,—

Amend-
ment of
section 3.

(i) in sub-section (2),—

15 (a) for clause (d), the following clause shall be substituted, namely:—

"(d) one representative each of the Departments of Food and Agriculture in the Central Ministry of Food and Agriculture and one representative each of the Central Ministries of Commerce, Defence, Industry and Supply and Railways, nominated by the Central Government;"

20

(b) for clause (g), the following clause shall be substituted, namely:—

“(g) two representatives nominated by the Central Government to represent the agricultural, commercial and industrial interests;”;

5

(c) after clause (h), the following clause shall be inserted, namely:—

“(i) one representative nominated by the Indian Standards Institution referred to in clause (e) of section 2 of the Indian Standards Institution (Certification Marks) Act, 1952.”;

10

36 of 1952

(ii) in sub-section (3), for the brackets, letters and word “(g) and (h)”, the brackets, letters and word “(g), (h) and (i)” shall be substituted.

Amend-
ment of
section 7.

4. In section 7 of the principal Act, in clause (iv), for the words “with a view to preventing the outbreak or spread of infectious diseases”, the words “in the interest of public health” shall be substituted.

15

Substitution
of new
sections for
sections 8
and 9.

Public
Analysts.

5. For sections 8 and 9 of the principal Act, the following sections shall be substituted, namely:—

20

“8. The Central Government or the State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications to be public analysts for such local areas as may be assigned to them by the Central Government or the State Government, as the case may be:

25

Provided that no person who has any financial interest in the manufacture, import or sale of any article of food shall be appointed to be a public analyst under this section.

Food
Inspectors.

9. (1) The Central Government or the State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications to be food inspectors for such local areas as may be assigned to them by the Central Government or the State Government, as the case may be:

35

Provided that no person who has any financial interest in the manufacture, import or sale of any article of food shall be appointed to be a food inspector under this section.

18 of 1860

(2) Every food inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code and shall be officially subordinate to such authority as the Government appointing him, may specify in this behalf."

5 6. In section 10 of the principal Act,—

Amend-
ment of
section 10.

(i) in clause (c) of sub-section (1), for the words "with a view to preventing the outbreak or spread of any infectious disease" the words "in the interest of public health" shall be substituted;

10 (ii) in sub-section (4), the following proviso shall be inserted, namely:—

"Provided that where the food inspector keeps such article in the safe custody of the vendor * * * he may require the vendor * * * to execute a bond for a sum of money equal to the value of such article with one or more sureties as the food inspector deems fit and the vendor shall execute the bond accordingly.";

15 (iii) in sub-section (7), for the words "as far as possible, call not less than two persons to be present at the time when such action is taken and take their signatures", the words "call one or more persons to be present at the time when such action is taken and take his or their signatures" shall be substituted.

20 7. For section 14 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for section 14.

25 "14. No manufacturer, distributor or dealer of any article of food shall sell such article to any vendor unless he also gives a warranty in writing in the prescribed form about the nature and quality of such article to the vendor.

Manufacturers, distributors and dealers to give warranty.

30 *Explanation.*—In this section, in sub-section (2) of section 19 and in section 20A, the expression "distributor" shall include a commission agent.

14A. Every vendor of an article of food shall, if so required, disclose to the food inspector the name, address and other particulars of the person from whom he purchased the article of food."

Vendor to disclose the name, etc. of the person from whom the article of food was purchased.

35 8. In section 15 of the principal Act, for the words "The State Government", the words "The Central Government or the State Government" shall be substituted.

Amendment of section 15.

Amend-
ment of
section 16.

9. For sub-section (1) of section 16 of the principal Act, the following sub-sections shall be substituted, namely:—

“(1) If any person—

(a) whether by himself or by any other person on his behalf imports into India or manufactures for sale, or stores, 5
sells or distributes any article of food—

(i) which is adulterated or misbranded or the sale of which is prohibited by the Food (Health) authority in the interest of public health;

(ii) other than an article of food referred to in sub- 10
clause (i), in contravention of any of the provisions of this Act or of any rule made thereunder; or

(b) prevents a food inspector from taking a sample as authorised by this Act; or

(c) prevents a food inspector from exercising any other 15
power conferred on him by or under this Act; or

(d) being a manufacturer of an article of food, has in his possession, or in any of the premises occupied by him, any material which may be employed for the purpose of 20
adulteration; or

(e) uses any report or certificate of a test or analysis made by the Director of the Central Food Laboratory or by a public analyst or any extract thereof for the purpose of 25
advertising any article of food; or

(f) whether by himself or by any other person on his 30
behalf gives to the vendor a false warranty in writing in respect of any article of food sold by him,

he shall, in addition to the penalty to which he may be liable under the provisions of section 6, be punishable with imprisonment for a term which shall not be less than six months but 35
which may extend to six years, and with fine which shall not be less than one thousand rupees:

Provided that—

(i) if the offence is under sub-clause (i) of clause (a) 35
and is with respect to an article of food which is adulterated under sub-clause (l) of clause (i) of section 2 or misbranded under sub-clause (k) of clause (ix) of that section; or

(ii) if the offence is under sub-clause (ii) of clause (a), the court may for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months and of fine of less than one thousand rupees.

(1A) If any person in whose safe custody any article of food has been kept under sub-section (4) of section 10, tampers or in any other manner interferes with such article, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine which shall not be less than one thousand rupees.

(1B) If any person in whose safe custody any article of food has been kept under sub-section (4) of section 10, sells or distributes such article and such article is found by the magistrate before whom it is produced, to be adulterated with any poisonous or other ingredient under sub-clause (h) of clause (i) of section 2, then, notwithstanding anything contained in sub-section (1A), he shall be punishable with imprisonment for a term of six years and with fine which shall not be less than one thousand rupees.

(1C) If any person contravenes the provisions of section 14 or section 14A, he shall be punishable with imprisonment for a term which may extend to six months and with fine which shall not be less than five hundred rupees.

(1D) If any person convicted of an offence under this Act commits a like offence afterwards, then, without prejudice to the provisions of sub-section (2), the court, before which the second or subsequent conviction takes place, may order the cancellation of the licence, if any, granted to him under this Act and thereupon such licence shall, notwithstanding anything contained in this Act, or in the rules made thereunder, stand cancelled."

10. In section 19 of the principal Act, * * *

*— Amend-
ment of
section 19.

(i) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) A vendor shall not be deemed to have committed an offence pertaining to the sale of any adulterated or misbranded article of food if he proves—

(a) that he purchased the article of food—

(i) in a case where a licence is prescribed for the sale thereof,* from a duly licensed manufacturer, distributor or dealer;

(ii) in any other case, from any manufacturer, distributor or dealer,
with a written warranty in the prescribed form; and

* * * * *

(b) that the article of food while in his possession was properly stored and that he sold it in the same state as he purchased it.”;

(ii) in sub-section (3), for the words, brackets and figure “in sub-section (2)”, the words and figures “in section 14” shall be substituted.

Amend-
ment of
section 20.

11. In section 20 of the principal Act, in sub-section (1), for the words “the State Government or a local authority” wherever they occur, the words “the Central Government or the State Government or a local authority” shall be substituted.

Insertion of
new section
20A.

12. After section 20 of the principal Act, the following section shall be inserted, namely:—

Power of
court to
implead
manufac-
turer, etc.

“20A. Where at any time during the trial of any offence under this Act alleged to have been committed by any person, not being the manufacturer, distributor or dealer of any article of food, the court is satisfied, on the evidence adduced before it, that such manufacturer, distributor or dealer is also concerned with that offence, then, the court may, notwithstanding anything contained in sub-section (1) of section 351 of the Code of Criminal Procedure, 1898, or in section 20 proceed against him as though a prosecution had been instituted against him under section 20.”.

5 of 1898.

Amend-
ment of
section 23.

13. In section 23 of the principal Act,—

(i) in clause (a) of sub-section (1), for the words “and the fees payable therefor”, the words “the fees payable therefor, the deposit of any sum as security for the performance of the conditions of the licence and the circumstances under which such licence or security may be cancelled or forfeited” shall be substituted;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two * * * successive sessions, and if,

5 before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

14. In sub-section (2) of section 24 of the principal Act,—

Amendment of section 24.

10 (i) in clause (a), the words "and jurisdiction of food inspectors and public analysts" shall be omitted;

* * * (ii) in clause (b), * * *

15 for the words "and the fees payable therefor", the words "the fees payable therefor, the deposit of any sum as security for the performance of the conditions of the licences and the circumstances under which such licences or security may be cancelled or forfeited" shall be substituted.

S. L. SHAKDHER,
Secretary.

